

November 30, 2020
Borough of Upper Saddle River
Affordable Housing Trust Fund Spending Plan

INTRODUCTION

The Borough of Upper Saddle River (hereinafter the "Borough"), Bergen County, has prepared a Housing Element and Fair Share Plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act (FHA) (N.J.S.A. 52:27D-301) and the regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:91-1 et seq. and N.J.A.C. 5:93-1 et seq.). The Borough of Upper Saddle River affordable housing trust fund was established in 2007.

As of November 24, 2020, the Borough of Upper Saddle River has a balance of \$404,902 in its Affordable Housing Trust fund. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund account at Columbia Bank for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:93-8.16 as described in the sections that follow.

1. REVENUES FOR CERTIFICATION PERIOD

It is anticipated that during the period of 2021 to 2025, which is the period that the Borough will have a Third Round Judgment of Compliance and Repose (hereinafter "Third Round JOR"), the Borough will add an additional \$844,920 to its Affordable Housing Trust Fund. This is detailed below.

- (a) Development fees: Over the past five years, the Borough of Upper Saddle River has collected an average of \$166,489 per year in development fees for its Affordable Housing Trust Fund. It is anticipated that this annual average will continue during the Third Round. As such, the Borough anticipates that approximately \$832,435 in development fees will be generated between January 1, 2021 and December 31, 2025.
- (b) Payment in lieu (PIL) and Other Funds: The Borough of Upper Saddle River does not currently anticipate the contribution of any payments in lieu and/or any other funds toward the municipal Affordable Housing Trust Fund during the period of its Third Round JOR.
- (c) Projected interest: It is estimated that the Borough of Upper Saddle River will collect approximately \$12,485 in total interest over the next 5 years.

SOURCE OF FUNDS	PROJECTED REVENUES – AFFORDABLE HOUSING TRUST FUND 2019 THROUGH 2025					
	2021	2022	2023	2024	2025	Total
(a) Development fees:	\$166,489	\$166,489	\$166,489	\$166,489	\$166,489	\$832,435
(b) Payments in Lieu of Construction	\$0	\$0	\$0	\$0	\$0	\$0
(c) Other Funds	\$0	\$0	\$0	\$0	\$0	\$0
(d) Interest	\$2,497	\$2,497	\$2,497	\$2,497	\$2,497	\$12,485
Total	\$168,986	\$168,986	\$168,986	\$168,986	\$168,986	\$844,920

In sum, the Borough of Upper Saddle River projects a total of \$844,920 in revenue to be collected between January 1, 2021 and December 31, 2025. This projected amount, when added to Upper Saddle River’s current trust fund balance of \$404,902, results in a total anticipated trust fund balance of \$1,249,822 available to fund and administer the Borough’s affordable housing plan. All interest earned on the account shall be used only for the purposes of affordable housing.

2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by the Borough:

- (a) Collection of development fee revenues: Collection of development fee revenues shall be consistent with Upper Saddle River's development fee ordinance for both residential and non-residential developments in accordance with applicable COAH's rules and P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.8), and as may be amended.
- (b) Distribution of development fee revenues: The Planning Board adopts and forwards a resolution to the Governing Body recommending the expenditure of development fee revenues as set forth in this spending plan. The Governing Body reviews the request for consistency with the spending plan and adopts the recommendation by resolution. The release of funds requires adoption of the governing body resolution in accordance with the spending plan. Once a request is approved by resolution, the Chief Financial Officer releases the requested revenue from the trust fund for the specific use approved in the governing body's resolution.

3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

- (a) Rehabilitation. In accordance with the Borough's January 23, 2020 Settlement Agreement with Fair Share Housing Center, Upper Saddle River has a Third Round rehabilitation obligation of 0 units. As such, the Borough is not obligated to establish a rehabilitation program or allocate funds from its affordable housing trust fund for such purposes.
- (b) Housing Activity. The Borough of Upper Saddle River will allocate funds as necessary to facilitate the two 100% affordable projects (Porcelanosa site and 160-168 East Crescent Avenue) included in its Third Round Housing Element and Fair Share Plan. The Borough's Spending Plan will be updated accordingly once development agreements have been reached between Upper Saddle River and the respective developers of those sites. It is anticipated that the Borough will allocate approximately \$1,150,000 of its affordable housing trust fund to support new construction housing activity which shall include the \$325,000 reference in paragraph c below.
- (c) RCA Reimbursement. The Borough's January 23, 2020 Settlement Agreement with Fair Share Housing Center stipulates that the \$325,000, and any interest received, previously designated for a regional contribution agreement ("RCA") with Fairview shall

be allocated to the affordable housing development at 160-168 East Crescent Avenue. However, if Fairview is successful in enforcing the RCA, Upper Saddle River shall not be required to transfer the \$325,000 to the 160-168 East Crescent Avenue project provided that the Borough is otherwise able to satisfy its Third Round affordable housing obligations.

- (d) Affordability Assistance. Pursuant to N.J.A.C. 5:93-8.16(c), the Borough is required to spend at least 30% of the revenues collected from development fees towards affordability assistance to very-low, low- and moderate-income households, one-third of which shall be dedicated toward affordability assistance for very-low income households. Development fees collected to finance an RCA, a rehabilitation program or a new construction project are exempt from this requirement. As shown in the table below, the Borough projects that approximately \$29,947 will be required to be dedicated toward affordability assistance through 2025, including \$9,982 to be dedicated toward affordability assistance for very-low income households. The Borough’s affordability assistance program is detailed in the Appendix to this Plan.

Actual development fees + interest through 11/30/20		\$404,902
Development fees + interest projected through 2025	+	\$844,920
Less new construction expenditures through 11/30/20	-	\$0
Less affordable housing expenditures projected through 2025	-	\$1,150,000
Total	=	\$99,822
30 percent requirement	x 0.30 =	\$29,947
Less total affordability assistance expenditures through 11/30/20	-	\$0
PROJECTED MINIMUM Affordability Assistance Requirement 2021-2025	=	\$29,947
Very low-income requirement (30% requirement ÷ 3)	÷ 3 =	\$9,982
PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 2021-2025	=	\$9,982

- (e) Administrative Expenses. Per N.J.A.C. 5:93-8.16(e), no more than 20% of the revenues collected from development fees shall be expended on administration. The Borough of Upper Saddle River projects that an additional \$249,964 will be available from the affordable housing trust fund to be used for administrative purposes through 2025. Projected administrative expenditures, subject to the 20% cap, include the salaries and benefits for municipal employees and consultant fees necessary to develop or implement the following:

1. An updated Housing Element and Fair Share Plan.
2. A rehabilitation program, as determined to be necessary.
3. An accessory apartment program.

4. An affirmative marketing program.
5. An affordability assistance program.
6. Other affordable housing activities that do not involve litigation.

Actual development fees + interest through 11/30/20		\$404,902
Development fees + interest projected 2021-2025	+	\$844,920
Total	=	\$1,249,822
20 percent requirement	x 0.20 =	\$249,964
Less administrative expenditures through 11/30/20	-	\$0
PROJECTED MAXIMUM Administrative Expenses Requirement 2021-2025	=	\$249,964
PROJECTED ACTUAL Administrative Expenses 2021-2025	=	\$69,875

4. EXPENDITURE SCHEDULE

The Borough of Upper Saddle River intends to use affordable housing trust fund revenues for the creation of housing units, affordability assistance, and administration. Where applicable, the funding schedule below parallels the implementation schedule set forth in the Housing Element and Fair Share Plan and is summarized as follows.

PROJECTS/PROGRAMS	Number of Units Projected	PROJECTED EXPENDITURE SCHEDULE 2021 -2025					
		2021	2022	2023	2024	2025	Total
Rehabilitation	0	N/A	N/A	N/A	N/A	N/A	N/A
Housing Activity		\$325,000	\$425,000	\$400,000	\$0	\$0	\$1,150,000
Affordability Assistance		\$5,991	\$5,989	\$5,989	\$5,989	\$5,989	\$29,947
Administration		\$13,975	\$13,975	\$13,975	\$13,975	\$13,975	\$69,875
Total		\$344,966	\$444,964	\$419,964	\$19,964	\$19,964	\$1,249,822

5. EXCESS OR SHORTFALL OF FUNDS

In the event of excess funds, any remaining funds above the amount necessary to satisfy the municipal affordable housing obligation will be dedicated toward the Borough's affordability assistance program, additional affordable housing activity and/or administrative costs necessary to address any remaining "unmet need."

In the event of any expected or unexpected shortfall of funds necessary to implement the Fair Share Plan, the Borough of Upper Saddle River will handle the shortfall of funds through an alternative funding source to be identified by the Borough or by adopting a resolution with an intent to bond, or the Borough will amend its spending plan to reduce the amount of funds available for the affordability assistance program and administrative expenses

6. BARRIER FREE ESCROW

Collection and distribution of barrier free funds shall be consistent with the Borough's Affordable Housing Ordinance and in accordance with applicable regulations. A process describing the collection and distribution procedures for barrier free escrow is detailed within the Borough's Affordable Housing Ordinance at Chapter 63 of the Borough Code.

SUMMARY

The Borough of Upper Saddle River intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:93-8.16 and consistent with the housing programs outlined in the Borough's Housing Element and Fair Share Plan.

The Borough of Upper Saddle River has a balance of \$404,902 as of November 30, 2020, and anticipates an additional \$844,920 in revenues through 2025 for a total of \$1,249,822. During the period of the Borough's Third Round JOR through 2025, the Borough will agree to fund approximately \$1,150,000 toward housing activity, approximately \$29,947 towards an affordability assistance program, and approximately \$69,875 towards administration.

Any shortfall of funds will be offset by an alternative funding source to be identified by the Borough or, in the unlikely event that no alternative funding is available, the Borough of Upper Saddle River will bond to provide the necessary funding. However, the Borough also reserves the right to amend its spending plan to adjust the amount of funds available for the affordability assistance program and administrative costs based on actual revenues. The Borough will dedicate any excess funds or balance toward housing activity necessary to address any remaining "unmet need" and administrative costs within the maximum permitted 20% cap.

SPENDING PLAN SUMMARY	
Balance as of November 30, 2020	\$404,902
PROJECTED REVENUE 2021-2025	
Development fees	+ \$832,435
Payments in lieu of construction	+ \$ 0
Other funds	+ \$ 0
Interest	+ \$12,485
SUBTOTAL REVENUE	= \$844,920
TOTAL REVENUE	= \$1,249,822
EXPENDITURES	
Housing Activity	- \$1,150,000
Affordability Assistance	- \$29,947
Administration	- \$69,875
TOTAL PROJECTED EXPENDITURES	= \$1,249,822
REMAINING BALANCE	= \$0
Excess Funds or Remaining Balance Reserved for Affordability Assistance and/or Additional Affordable Housing Activity Necessary to Address "Unmet Need"	= \$0

APPENDIX:

FOR-SALE UNIT AFFORDABILITY ASSISTANCE PROGRAM AND RENTAL UNIT AFFORDABILITY ASSISTANCE PROGRAM

FOR-SALE UNIT AFFORDABILITY ASSISTANCE PROGRAM

1. Down Payment Loan Program.

The Borough may offer a Down Payment Assistance Loan program to qualified purchasers of households earning 80% or less of median income of the housing region. To be eligible for the loan, the qualified Buyer must be able to supply 3% of the down payment with the Buyer's own funds, plus additional closing costs that exceed the amount of the loan. No gifts or other loans may be used to fund the 3% down payment amount, but may be used to fund additional closing costs. The loan amount may be made up to 10% of the purchase price.

The Borough must approve the Buyer's qualifications and need for the loan. The loan has no prepayment penalty. It is due and payable when the Buyer resells, borrows against the property or refinances the First Purchase Money Mortgage. The loan may be subordinated only to the First Purchase Money Mortgage. When calculating the borrowing capacity of the homeowner and the equity in the property, this loan must be included. The Buyer must sign a mortgage and mortgage note to the Borough.

2. Payment of Closing Costs.

Eligible Buyers may receive payment of closing costs, i.e., title work and policy, reasonable attorney's fees for closing of title, preparation of survey, homeowners insurance, recording fees and other necessary closing expenses to third parties, not to exceed one thousand five hundred dollars (\$1,500) per unit. This assistance shall be in the form of a grant. Total buyer assistance grants, which include Payment of Closing Costs and Payment of Lender Fees, shall not exceed three thousand dollars (\$3,000) per unit. Utility deposits, i.e., gas and electric, paid to utility companies are to be returned to the Borough Affordable Housing Trust Fund upon resale of the unit. The buyer will execute documents required to secure payment to Upper Saddle River Borough.

3. Payment of Lender Fees.

Eligible Buyers may receive payment of lender fees, i.e., mortgage points, application fees, appraisal fees, bank attorney review fees, and necessary mortgage closing expenses, not to

exceed one thousand five hundred dollars (\$1,500) per unit. This assistance shall be in the form of a grant. Total buyer assistance grants, which include Payment of Closing Costs and Payment of Lender Fees, shall not exceed three thousand dollars (\$3,000) per unit.

4. Administration.

Upper Saddle River's Affordability Assistance Programs are managed by the Upper Saddle River Borough Affordable Housing Administrative Agent. The availability of the program shall be advertised continually on the Borough's website. The following administrative process is applied to the For-Sale Unit Affordability Assistance Program:

- a. The Buyer contacts the Administrative Agent to confirm that he/she wants to receive Down Payment Assistance.
- b. The Buyer must present proof to the Administrative Agent that he/she is qualified for Affordable Housing in the Upper Saddle River Borough.
- c. Buyer must produce an exact copy of a signed Real Estate Contract for an affordable housing unit in Upper Saddle River Borough, which indicates clearly the full amount of the purchase price. Buyer must provide the Administrative Agent with the full name, address, phone number, and fax number of the Buyer's Attorney or Settlement Agent so that the Attorney or Settlement Agent can review and approve any and all documents required for the loan.
- d. The Administrative Agent contacts the Realtor or Developer for confirmation of the sale of the unit, and the name of the Attorney handling the sale for the Developer at closing.
- e. The amount of the Down Payment Assistance loan is verified (not to exceed ten percent of the Purchase Price) so that a Mortgage Note, Mortgage, and Repayment Agreement can be prepared by the Administrative Agent.
- f. The amount of the Down Payment Assistance must be disclosed to the Lender, so that the Lender can accurately prepare the First Mortgage documents. The Buyer must give a copy of the First Mortgage Commitment to the Administrative Agent upon receipt of same, so that the Lender can receive full information about the Down Payment Assistance Loan, which shall constitute a Second Mortgage on the premises. The Lender must approve the secondary financing. The Upper Saddle River Borough Affordable Housing Attorney will contact the Lender once the Affordable Housing Attorney has a copy of the First Mortgage Commitment.

- g. The Upper Saddle River Borough Finance Department will generate the necessary forms and obtain Upper Saddle River Borough Council approval for it to issue an Affordable Housing Trust Fund check payable to the Seller's Attorney or Settlement Agent, so that the Down Payment Assistance check can be deposited into the Seller's Attorney Trust Account or Settlement Agent Trust Account pending Closing of Title. The letter and check to the Seller's Attorney or Settlement Agent shall state that the deposit money must be returned to the Upper Saddle River Borough if the closing is canceled, or if the sale is declared null and void. If there is a Closing of Title, the Down Payment Assistance money shall be released to the Seller. This money shall be shown on the Closing Statement as a deposit, with credit given at closing to the Buyer. The Buyer must fully execute the Mortgage Note, Mortgage, and Repayment Agreement at the Closing of Title before any money is released.
- h. The Seller's Attorney or Settlement Agent shall verify that the Mortgage Note, Mortgage, and Repayment Agreement have been properly executed, and shall file the original Mortgage with the County Clerk to protect the Upper Saddle River Borough Second Mortgage on the property and return the Filed Mortgage to Affordable Housing Attorney along with the original Mortgage Note and Repayment Agreement.

RENTAL UNIT AFFORDABILITY ASSISTANCE PROGRAM

1. Rental Assistance

Upper Saddle River Borough may offer a Rental Assistance Program that is managed by the Administrative Agent. Eligible recipients of the program are renters who qualify for a very-low, low- or moderate-income rental unit. The following assistance is available to very-low, low- and moderate-income households:

- a. Payment of "moving expenses" based upon verified receipts, in an amount not to exceed five hundred dollars (\$500) per family.
- b. Rent subsidies based upon size of household and number of bedrooms in apartment, which subsidies shall be limited to a time period of one (1) year per household:
 - 1) One-bedroom, low-income unit -\$55 per month subsidy.
 - 2) One-bedroom, moderate-income unit -\$100 per month subsidy.
 - 3) Two-bedroom, low-income unit -\$100 per month subsidy.
 - 4) Two-bedroom, moderate-income unit -\$200 per month subsidy.
 - 5) Three-bedroom, low-income unit -\$150 per month subsidy.
 - 6) Three-bedroom, moderate-income units -\$250 per month subsidy

The following assistance is available to very low-income households:

- a. Payment of "moving expenses" based upon verified receipts, in an amount not to exceed one thousand five hundred dollars (\$1,500) per household.
- b. Rental security deposit -Deposits paid to landlord to be returned to the Borough's Affordable Housing Trust Fund upon termination of tenancy.
- c. Rent subsidies based upon size of household and number of bedrooms in apartment which subsidies shall be limited to a time period of one (1) year per household, but may be extended beyond one (1) year if affordable housing trust funds are available:
 - 1) One-bedroom - \$75 per month subsidy.
 - 2) Two-bedroom - \$125 per month subsidy.
 - 3) Three-bedroom - \$175 per month subsidy.

Rental assistance does not need to be repaid by the tenant. The amount of the rental supplement will be calculated initially based on the tenant's actual income and the rent level of the affordable units to help bring the total shelter costs down to 30% of the total household income or lower, if warranted by the particular household circumstances. If the tenant wishes to renew the lease, he/she must be re-income qualified and the rental supplement will be recalculated. If the tenant no longer qualifies for the rental assistance, he/she may renew the lease and stay in the unit, but will no longer receive rental assistance.

2. Administration.

Upper Saddle River Borough's Rental Unit Affordability Assistance Program will be administered by the Administrative Agent. The availability of the program shall be advertised continually on the Borough's website. After an applicant is income qualified by the Administrative Agent pursuant to the Uniform Housing Affordability Controls, the applicant will complete and provide an affordability assistance application to the Administrative Agent.

For qualified and approved payment of moving expense, the Administrative Agent will follow the Borough purchasing and requisition process for generating a check that is made out to the applicant. Once the check is produced, the Administrative Agent provides it to the applicant.

For qualified and approved payment of utility deposit, the Administrative Agent follows the Borough purchasing and requisition process for generating a check that is made out to the

utility company. Once the check is produced, the Administrative Agent provides it to the applicant for payment to the utility company.

The affordability assistance recipient will sign a contract with Upper Saddle River Borough which states, at a minimum: the amount of funds granted, interest information, procedures, duration and conditions of affordability assistance, and repayment information if required.

The availability of any Affordability Assistance Programs must be noticed to all tenants of affordable units within Upper Saddle River Borough and provided to all administrative agents of affordable units within Upper Saddle River Borough and advertised on the Borough's website.

An income eligible occupant or applicant for an affordable unit within Borough may not be denied participation in the Affordability Assistance Program(s) unless funding is no longer available.